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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

18 On January 11, 2008, Thy Mao (“Petitioner”) filed a *pro se* Petition for Writ
19 of Habeas Corpus (“Habeas Petition”) pursuant to 28 U.S.C. § 2241. (Doc 1). At the
20 time, Petitioner was confined at the Immigration Detention Center in Eloy, Arizona
21 awaiting removal to Cambodia. Petitioner argued he was detained beyond a 180-day
22 period without his removal significantly likely to occur in the reasonably foreseeable
23 future and that further detainment violated federal law as interpreted by the Supreme
24 Court. *Zadvydas v. Davis*, 533 U.S. 678 (2001). On February 7, 2008, Petitioner was
25 released from confinement on an Order of Supervision. (Doc 8, Exhibit 1). After
26 Petitioner’s release, Respondent filed a Notice of Filing and Suggestion of Mootness
27 arguing the Habeas Petition is now moot. (Doc 8).

Procedural History

2 On June 20, 2007, an immigration judge ordered Petitioner removed to
3 Cambodia. (Doc 8, Exhibit 1). After being held for over six months, on January 11,
4 2008, Petitioner filed the Habeas Petition pending before this Court. (Doc 1).
5 Petitioner sought relief from his continued detention arguing there was no prospect
6 that his removal to Cambodia would be effected in the reasonably foreseeable future.
7 (Doc 1). On February 7, 2008, Petitioner was released on an Order of Supervision.
8 (Doc 8, Exhibit 1). In a Notice of Filing and Suggestion of Mootness filed April 14,
9 2008, Respondent argues the Habeas Petition is now moot because Petitioner has
10 received the relief sought in the Habeas Petition. (Doc 8). Petitioner has not filed a
11 Response to the Notice of Filing and Suggestion of Mootness and the time for filing
12 such a response has expired.

13 || Analysis

14 Article III of the United States Constitution empowers federal courts to
15 adjudicate only actual, ongoing cases or controversies. *Deakins v. Monaghan*, 484
16 U.S. 193, 199 (1988). It is insufficient that the case-or-controversy requirement is
17 satisfied when the suit is filed, the requirement “subsists through all stages of federal
18 judicial proceedings ... The parties must continue to have a personal stake in the
19 outcome of the lawsuit.” *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-478
20 (1990) (internal quotations omitted.) Furthermore, if it appears that the Court is
21 without the power to grant the relief requested by a habeas petitioner, then that case
22 is moot. *Picrin-Person v. Rison*, 930 F.2d 773, 775-776 (9th Cir.1991).

23 In the case before this Court, Petitioner challenges only the legitimacy of his
24 continued detention and seeks, as his sole request, relief from it in the form of
25 supervised release. As Respondent points out, Petitioner is no longer in custody; he
26 was released on an Order of Supervision on February 7, 2008. Petitioner, therefore,
27 no longer has a personal stake in the outcome of this lawsuit. Additionally, the relief

1 Petitioner requested, his release from continued and potentially indefinite detention,
2 can no longer be granted by the Court. For these reasons, this case is moot.

3 **Recommendation**

4 After careful consideration of the Complaint and all papers filed in this action,
5 the Magistrate Judge recommends that the District Court dismiss this Habeas Petition
6 as moot. When Petitioner was released from detention it rendered his Habeas Petition
7 moot.

8 Pursuant to Title 28 U.S.C. § 636(b), any party may serve and file written
9 objections within 10 days of being served with a copy of this Report and
10 Recommendation. If objections are not timely filed, they may be deemed waived.

11 If objections are filed, the parties should use the following case number: cv 08-
12 065-PHX-FJM.

13 DATED this 1st day of May, 2008.

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16 **CHARLES R. PYLE**
17 **UNITED STATES MAGISTRATE JUDGE**
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